

SUBJECT: Revision of staff leasing services regulation

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Wilson, Goolsby, Haggerty, Hamric, Pickett, Torres
0 nays
1 present, not voting — Yarbrough
2 absent — Kubiak, D. Jones

WITNESSES: For — Carl Kleiman and Robert Rice, Texas Chapter of the National Association for Professional Employer Organizations; Larry Kosta and Pat Tamaro, International Employment Solutions Corporation; Cordell Hull, National Association for Alternative Staffing; Gaylord Armstrong, Adminstaff, Inc.
Against — None
On — Michael Yuhr, Texas Department of Licensing and Regulation

BACKGROUND : In 1993, the 73rd Legislature enacted HB 456 by Seidlits, placing the regulation of staff leasing companies under the Texas Department of Licensing and Regulation (TDLR). Staff leasing companies subject to regulation are those that share employment responsibilities with the client company. Temporary held services, independent contractors, and publicly traded companies, whose total assets were greater than \$1 billion on the New York Stock Exchange, are not subject to regulation.

DIGEST: CSHB 1465 would make technical, clarifying and substantive changes to the laws regulating staff leasing services.
CSHB 1465 would deem an employee of a staff leasing company who failed to contact the company after completion of the last assignment to have left without good cause if employee had been informed that failure to contact the

company for reassignment could mean ineligibility for unemployment compensation benefits.

The bill would also remove the exemption from licensing for publicly traded companies but add an exemption for services provided from one person to another where there was common ownership of the two organizations. If TDLR would have to state the reasons for denying an application of a staff leasing company in writing. If the reasons for denial included the unsuitability of a controlling person who was later removed from the controlling provision, the denial of the application would be an affirmative defense to any suit the person brought for being removed from the controlling position.

The ownership requirement for being deemed a controlling person would be raised from 10 to 25 percent. The bill also would require companies to disclose new or additional controlling persons to TDLR within 45 days.

CSHB 1465 would extend the license of staff leasing services to two years; limited staff leasing licenses would remain valid for one year. In order to obtain a limited staff leasing company license, a company could employ no more than 50 assigned employees, could not provide services to Texas-based or domiciled companies and could not have an office in Texas nor solicit business of Texas-based companies.

If the arrangement between the staff leasing company and the client changed, the company would be required to inform the assigned employees no later than the first pay date after the change.

In other changes, CSHB 1465 would:

- clarify that an assigned employee would be any employee, not just full-time workers;
- delete the requirement that a controlling person be of good moral character;
- remove restrictions on reapplication for a license;
- allow name changes to the license for a \$50 administration fee;

- require all proposals or contracts with clients to clearly state the name of the license holder;
- allow disciplinary actions for offering staff leasing services without a license;
- adopt sanctions provisions applicable to TDLR;
- require the client to retain control over any goods and services produced by the client or the acts or omissions of an employee assigned to the client; and
- allow the use of “professional employer organization” and “administrative employer” to designate licensed staff leasing companies.

CSHB 1465 would take effect September 1, 1997 and apply to all licenses applied for or renewed after that date and any unemployment claims filed after that date.

NOTES:

The original version of the bill would have removed staff leasing services from licensing requirements and required them only to register with TDLR. In removing licensing requirements, the original version would have removed any background checks, net worth requirements, license application requirements, limited licenses for out of state companies, and any penalties for engaging in services without a license. None of the substantive changes made by the committee substitute to HB 1465 appeared in the original version.